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11 UNITED STATES DISTRICT COURT
12
13 NORTHERN DISTRICT OF CALIFORNIA
14
SAN FRANCISCO DIVISION

15 IN RE: VOLKSWAGEN “CLEAN DIESEL”) MDL No. 2672 CRB (JSC)
16 MARKETING, SALES PRACTICES, AND)
17 PRODUCTS LIABILITY LITIGATION) **STIPULATION AND [PROPOSED] ORDER**
18) **REGARDING INVESTMENT OF**
19) **MITIGATION TRUST PAYMENT**

20 This Document Relates to:)

21 *United States v. Volkswagen AG et al.*, No. 16)
22 Civ. 295 (CRB) (JSC))
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28)

The Honorable Charles R. Breyer

1 WHEREAS, the Court entered the Partial Consent Decree on October 25, 2016 (Dkt. 2103);

2 WHEREAS, Paragraph 14 of the Partial Consent Decree requires Settling Defendants to make
3 \$2,700,000,000 in Mitigation Trust Payments to a Trust to fund Eligible Mitigation Actions to achieve
4 reductions of NOx emissions in accordance with requirements to be set forth in a Trust Agreement;¹

5 WHEREAS, Paragraph 14.a. of the Partial Consent Decree requires Settling Defendants, no later
6 than 30 Days after the Effective Date, to deposit \$900,000,000 into a Trust Account (“Initial Deposit”);

7 WHEREAS, a trustee has not been selected pursuant to Paragraph 15 of the Partial Consent
8 Decree, and a Trust Agreement has not been finalized and filed with the Court pursuant to Paragraphs 16
9 and 17 of the Partial Consent Decree;

10 WHEREAS, Paragraph 14.d. provides that if any payments required under Paragraph 14 become
11 due before the Trust Account is established, Settling Defendants shall deposit such payments with the
12 Court in accordance with Fed. R. Civ. P. 67;

13 WHEREAS, the Partial Consent Decree constitutes an Order permitting such deposits pursuant
14 to Paragraph 14.d.;

15 WHEREAS, Settling Defendants have agreed to deposit the funds for the Initial Deposit with the
16 Clerk of the United States District Court before the selection of the trustee and the establishment of the
17 Trust Account;

18 WHEREAS, the Court issued an Order on October 27, 2016 (Dkt. 2118), authorizing the Clerk
19 of Court for the Northern District of California to accept an electronic funds transfer payment from the
20 Settling Defendants of the Initial Deposit of \$900,000,000, and to hold such funds in the Clerk’s
21 Registry, including interest earned thereon, for the Settling Defendants’ Initial Deposit of Mitigation
22 Trust Payments;

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28 ¹ All capitalized terms in this Stipulation have the same definitions as in the Partial Consent Decree (Dkt. 2103-1).

1 NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and among the
2 Parties, to jointly request the Court to issue an Order authorizing the following:

3 (1) the Initial Deposit of \$900,000,000 to be paid by Settling Defendants and deposited in the
4 Court Registry Investment System shall be held in a separate account;

5 (2) the funds shall be invested in treasury securities with a maximum maturity of three months
6 and, at maturity, can be rolled into overnight securities until further Order of this Court.
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8 Dated: November 15, 2016

Respectfully submitted,

9
10 For the United States of America
11 JOHN C. CRUDEN
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23 Dated: November 15, 2016

Respectfully submitted,

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Dated: November ___, 2016

CHARLES R. BREYER
United States District Judge

1 **ATTESTATION**

2 Pursuant to Civil Local Rule 5-1(i)(3), the filer of this document attests that concurrence in the
3 filing of this document has been obtained from the other signatories above.

4 Dated: November 15, 2016

/s/ Robert D. Mullaney
Robert D. Mullaney